

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7413

BILL NUMBER: SB 431

NOTE PREPARED: Apr 2, 2007

BILL AMENDED: Mar 29, 2007

SUBJECT: Animal Feeding Operations.

FIRST AUTHOR: Sen. Gard

FIRST SPONSOR: Rep. Pflum

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: The bill defines "applicant", "modification", and "responsible party" for purposes of confined feeding control statutes. It specifies that confined feeding control statutes apply to both confined feeding operations (CFOs) and concentrated animal feeding operations (CAFOs), and to both original construction and modifications. The bill establishes good character disclosure requirements for CFOs and CAFOs. It provides that a new CFO may not be constructed within one mile of the boundary of a school, a licensed health facility, or a municipality. It allows an expansion of an existing operation by a person who has not committed an environmental violation. It allows the Department of Environmental Management (IDEM) to review and act on disclosed good character information.

Fees for CFOs and CAFOs: The bill establishes a construction and modification fee and annual fee for CFOs and CAFOs. It establishes a confined feeding inspection fund. It requires IDEM to establish civil penalty matrices for various categories of violations relating to CFOs. IDEM must inspect a CFO at least one time each year if the owner or operator has committed a violation of environmental management laws or a rule adopted by the Water Pollution Control Board. It provides that IDEM and the environmental boards have sole regulatory authority for protection of human health and the environment concerning CFOs and CAFOs, and that political subdivisions have regulatory authority concerning CFOs and CAFOs with respect to only land use and zoning.

State Chemist: The bill also requires the State Chemist to adopt rules relating to the use of fertilizer material and the distribution and storage of bulk commercial fertilizers. The bill makes conforming amendments.

Department of Agriculture (IDOA): The bill requires the IDOA to communicate with the executive of each county to encourage the county to adopt and assist the county in adopting an ordinance to address land use

and zoning issues related to CFOs.

The bill applies certain provisions of the act to pending confined feeding projects. It makes conforming amendments.

Effective Date: Upon Passage; July 1, 2007.

Explanation of State Expenditures: *IDEM:* A person and a responsible party must submit to IDEM a disclosure statement and certain additional information. IDEM may investigate and verify the information provided. Based on findings, the commissioner may deny the application. The bill provides that the Solid Waste Management Board may adopt rules to administer the provisions of the bill. IDEM should be able to cover any additional expenses associated with these provisions given existing resources.

Inspections: IDEM must inspect CFOs and CAFOs at least once each year if IDEM determines that the owner or operator has committed a violation of environmental management laws or a rule adopted by the board. Currently, IDEM is required to inspect all operations once every five years. The increase in staff, if any, that will be needed will depend on the number of future violators.

(Revised) *State Chemist:* The State Chemist must adopt rules to establish a training and educational program for manure haulers and applicators concerning the application to land of manure generated from a confined feeding operation. The program must include the following topics concerning manure hauling and application:

- (1) Manure testing.
- (2) Soil testing.
- (3) Transportation.
- (4) Manure application and handling.
- (5) Any other topics determined by the State Chemist.

Before November 1, 2007, the State Chemist must submit a report concerning the status of the program to the General Assembly in an electronic format.

The overall anticipated cost for the program is \$116,800 per year beginning in FY 2009. During FY 2008, the State Chemist's Office will promulgate rules. Beginning with the implementation of the program, which will likely be in 2009, additional expenses for the State Chemist's Office will include the addition of a Data Entry Position, related support/benefit costs, computer equipment and related supplies, along with additional costs associated with adding responsibility to a secretary and an Engineer Specialist who will assume supervisory responsibility for the program. Costs will also involve continued IT support to design, develop, test, and implement the program.

If the State Chemist were to institute a \$100 annual fee for the program, the program could generate around \$140,000 given that there are an estimated 1,400 haulers and applicators who might be involved. If the program was administered in a manner that is comparable to the pesticide program, a portion of the fee, which would likely be \$10, would be used to support education programs. There are no appropriations in the bill. Any fees collected would be deposited with the Purdue University Treasurer.

Department of Agriculture (IDOA): The IDOA currently communicates with the executive of each county to encourage the county to adopt and assist the county in adopting an ordinance to address land use and zoning issues related to CFOs. Consequently, this provision will have no impact.

Explanation of State Revenues: *Summary:* The bill would decrease permit revenue in the Environmental Management Permit Operation Fund by an estimated \$12,200 annually and would provide revenue of \$2,200 in the Confined Feeding Operation Inspection Fund. The individual provisions are described below.

Fees for CFOs and CAFOs: The bill establishes a \$1 fee payable to IDEM for CFOs and CAFOs. This provision should generate an estimated \$2,234. IDEM must deposit the fee in the Confined Feeding Operation Inspection Fund. IDEM must administer the fund. Money in the fund is annually appropriated to IDEM for inspection purposes. Expenses of administering the fund must be paid from money in the fund. The Treasurer of State must invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Money in the fund at the end of a fiscal year does not revert to the state General Fund.

Fee Decrease for Application for Approval of Construction or Modification: The bill decreases from \$100 to \$1 the fee for a CFO application for approval of construction or modification. An estimated 120 applications will be received in FY 2008. Given this figure, the fee revenue decrease would equal (\$11,880) ((120 * \$1)- (120 * \$100)). The current fee generates about \$12,000.

Repeal of CAFO NPDES Fee. Under existing law, a large CAFO has to have either an individual NPDES permit or a general NPDES permit. The bill repeals IC 13-18-20-11.5, which provides an initial or renewal fee of \$100 for a general CAFO NPDES and a \$250 fee for an individual CAFO NPDES initial or renewal permit. With respect to the \$100 general fee for CAFO NPDES, there are 413 facilities to which the fee applies which generates \$41,300 every five years, or \$8,260 annually. With respect to the individual permits, there are 11 facilities to which the \$250 fee applies which generates \$2,750 every five years, or \$550 annually. The total reduction in fees would equal \$8,810 annually.

Wastewater Treatment Facilities: The bill increases the fee for a NPDES permit from \$50 to \$75. This provision will apply to about 340 facilities and will increase revenue by an estimated \$8,500 annually.

In total, there would be a net decrease in revenue to the Environmental Management Permit Operation Fund equal to an estimated \$12,200. There would be an increase in revenue to the Confined Feeding Operation Inspection Fund of \$2,200.

Civil Penalties Matrix: The range of the penalties for each category of the civil penalty matrix is as follows:

- (1) First time violations, \$100 to \$25,000 for each day of violation.
- (2) Repeat violations, \$500 to \$50,000 for each day of violation.
- (3) Intentional violators, \$10,000 to \$100,000 for each day of violation.

The amount of revenue that will be collected from civil penalties is indeterminable. Civil penalties are deposited in the state General Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: IDEM.

Local Agencies Affected:

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